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U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LEONEL GUTIERREZ-SANCHEZ; et
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-73379

Agency Nos. A75-773-160
A75-773-161

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 13, 2007 ^{**}

Before: TROTT, W. FLETCHER and CALLAHAN, Circuit Judges.

Leonel Gutierrez-Sanchez and Paulina Gutierrez, natives and citizens of
Mexico, petition for review from the Board of Immigration Appeals' (BIA) denial

^{*} This disposition is not appropriate for publication and is not
precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

of their motion to reconsider the denial of their motion to reopen their deportation proceedings.

The evidence petitioners presented in their motion to reopen concerned the same basic hardship grounds as their application for cancellation of removal. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006). We therefore lack jurisdiction to review the BIA's discretionary determination that the evidence was insufficient to establish a prima facie case of hardship. *See id.* at 601 (holding that if "the BIA determines that a motion to reopen proceedings in which there has already been an unreviewable discretionary determination concerning a statutory prerequisite to relief does not make out a prima facie case for that relief," 8 U.S.C. § 1252(a)(2)(B)(i) bars this court from revisiting the merits).

DISMISSED.